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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/064,221	06/21/2002	Lawrence Miller	72167.000582	4472
21967 7590 09/04/2007 HUNTON & WILLIAMS LLP INTELLECTUAL PROPERTY DEPARTMENT 1900 K STREET, N.W. SUITE 1200 WASHINGTON, DC 20006-1109			EXAMINER SWEARINGEN, JEFFREY R	
			ART UNIT 2145	PAPER NUMBER
			MAIL DATE 09/04/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/064,221

Applicant(s)

MILLER ET AL.

Examiner

Jeffrey R. Swearingen

Art Unit

2145

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 39-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 39-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 2145

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 7/13/2007 have been fully considered but they are not persuasive.
2. In regard to claim 39, step a includes *an indicia evidencing client receipt of the slow cookie or not including an indicia evidencing receipt of the slow cookie*. This implies the client previously received a slow cookie. However, no slow cookie is ever transmitted to the client prior to this step. The missing element in claim 39 is transmitting the initial slow cookie, if there is actually a slow cookie initially transmitted. **The claim language is so unclear in these respects that it is impossible to comprehend what Applicant is intending to claim.** This problem is mirrored in claim 41, which was not rejected under 35 USC 112, first paragraph because of the preamble of the claim failing to mention the generation and sending of slow cookies. This leads to a major interpretation problem of the claims, based on a causal issue between the decision of whether a slow cookie was previously received, and the initial transmission of any slow cookie.
3. The rejection of claims 40 and 42 under 35 USC 112, first paragraph is withdrawn.
4. Applicant amended to overcome the fast cookie and slow cookie interpretation used by the Office. Applicant's amendment failed to shed any light on the difference between a fast cookie and a slow cookie. The Office's interpretation still can be met by Applicant's amendment, because the authentication verification would inherently require the server computer to implement additional screening and processing of commands and passwords before verifying the authentication, or not immediately available. A cookie with user data would be immediately available.
5. Applicant argued McDonough failed to disclose the conditional limitations wherein the server responds to the client request with a clear gif response without a slow cookie if the client request indicated the cookie was already received, and the server responds to the client request with a clear gif response and a slow cookie if the client request indicated the cookie had not yet been received. A "clear gif response" is a response to the initial "clear gif request", or the request from the URL. If this is not what Applicant was arguing, Applicant should clearly state the argument.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 39-42 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonough et al. (US 5,991,878).

8. In regard to claim 39, McDonough disclosed:

*the server receiving from the client a connection request to the server system, said connection request including a clear gif link, said request (1) including an indicia evidencing client receipt of the slow cookie or (2) not including an indicia evidencing client receipt of the slow cookie; See column 3, lines 13-38 for description of the URL (assumed to be a clear gif link since Applicant failed to specifically claim what a clear gif link is) in which a cookie is detected.*

*based on the clear gif link connection request, the server system determining if the slow cookie has been received by the client pursuant to a prior request from the client; Column 3, lines 39-57.*

*wherein, if the slow cookie is determined by the server system to have been previously received by the client, the server system responds to the connection request with a clear gif response without the slow cookie, and permits the client to access further resources from one or more of said websites; Column 4, lines 57-67.*

*wherein, if the slow cookie is determined by the server system not to have been previously received by the client, the server system attempts to generate and provide the slow cookie in a clear gif response that includes the slow cookie; wherein the fast cookie is immediately available and the slow cookie is not immediately available. Creation of "sub cookies" for this session based on the detection of authentication information is detailed in column 3, lines 58-67. A "smart cookie" is later created from these "subcookies". Column 4, lines 44-63.*

Art Unit: 2145

9. In regard to claim 40, McDonough disclosed:

*if the server system determines the slow cookie was not previously received by the client:  
the server system determines if the slow cookie has at been prepared or is in the  
queue awaiting transmission to the client; and if so  
the server system sends the slow cookie to the client included in the clear gif  
response.*

One of ordinary skill in the art would reasonably interpret this claim to mean the  
utilization of cache resources. See Column 4, lines 37-40.

10. Claims 41 and 42 cover substantially the same subject matter as claims 39-40. Claims 41-42 add  
an access resource limitation on files based upon the presence of cookies. Column 4, lines 60-63.

A clear gif link and a clear gif response are not necessarily a "clear gif" as Applicant  
defined on page 4 of the originally filed specification. A clear gif link is broadly interpreted as a  
URL and a clear gif response is broadly interpreted as the server response to the URL. Applicant  
has not claimed the presentation of a "transparent image file". Applicant also has not clearly  
stated the difference between a "fast cookie" and a "slow cookie" in the specification, so these  
have been broadly interpreted respectively as an authentication verification and a cookie with  
user data.

#### ***Claim Rejections - 35 USC § 112***

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly  
claiming the subject matter which the applicant regards as his invention.

12. Claim 39 is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting  
essential elements, such omission amounting to a gap between the elements. See MPEP § 2172.01.

The omitted elements in claim 39 are:

Art Unit: 2145

There is no element detailing the relationship between a link indicating receipt of a slow cookie and determining if the client has previously received the slow cookie. The claim currently reads as two disparate elements in a and b. A can be broadly read as a connection request indicating the receipt of a cookie within said connection request. If this is the reading applied, then B is referencing a previously stored slow cookie prior to A's connection request, which would involve the transmission of slow cookie A even though the client has already received slow cookie B. It is not clear if this is what Applicant intends.

### ***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

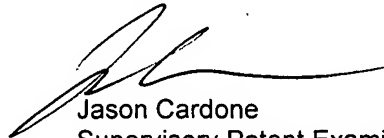
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2145

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Jason Cardone  
Supervisory Patent Examiner  
Art Unit 2145

JRS